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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/889,940	09/24/2001	Stephen George Edward Barker	GJE-75	4604
23557	7590	12/22/2003		
SALIWANCHIK LLOYD & SALIWANCHIK A PROFESSIONAL ASSOCIATION 2421 N.W. 41ST STREET SUITE A-1 GAINESVILLE, FL 326066669			EXAMINER MATHEW, FENN C	
			ART UNIT 3764	PAPER NUMBER
			DATE MAILED: 12/22/2003	

*14*

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/889,940

Applicant(s)

BARKER, STEPHEN GEORGE  
EDWARD

Examiner

Fenn C Mathew

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 05 August 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 11-26 and 31-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11-26 and 31-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 11-13, 15-18, 21-23, 25-26, and 31-33 are rejected under 35 U.S.C. 102(b) as being anticipated by Liman (U.S. 3,741,203). Referring to claim 11, Liman discloses a device including an enclosure (10) comprising a plastic material (col. 4, lines 1-10), wherein the enclosure has a closeable opening at an end, a fastening means (22) to enable the opening of the enclosure to be closed around the limb, and a fluid absorbent material (col. 4, lines 20-30) within the enclosure so that when the device is applied to a limb with a wound the fluid absorbent material is in contact with an unaffected part of the limb, and wherein the device provides a warm and moist environment around the wound (inherently since foam absorbs any moisture).
3. Referring to claim 12, Liman discloses the plastic is gas-impermeable.
4. Referring to claim 13, Liman discloses multi-layer plastic construction that is gas-impermeable. (Col. 4, lines 9-15).
5. Referring to claims 15-18, Liman discloses the enclosure further comprising means for venting gases through the enclosure in association with an active filter. (70, 72).

6. Referring to claim 21, Liman discloses a device that is water-vapor permeable (through venting means).
7. Referring to claim 22, Liman discloses the enclosure in the shape of a boot or sock.
8. Referring to claim 23, Liman discloses the enclosure with a non-slip sole (41).
9. Referring to claim 25, Liman discloses the enclosure comprising a pliable plastic material.
10. Referring to claim 26, Liman discloses that the plastic is made of PVC which can be transparent.
11. Referring to claim 31, Liman discloses the method including providing the claimed structure (see structural limitations above), inserting the wounded limb into the closeable opening, placing the wounded limb in the enclosure so that the wound is contained within the enclosure, and securely closing the enclosure of the device about the wounded limb using the fastening means.
12. Referring to claim 32, Liman discloses the plastic material is gas-impermeable.
13. Referring to claim 33, Liman discloses multi-layer plastic construction that is gas-impermeable. (Col. 4, lines 9-15).

***Claim Rejections - 35 USC § 103***

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claims 14, 19-20, and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Liman in view of Shuler (U.S. 2,690,415). Liman discloses the claimed invention except for an odor-absorbent layer. Shuler discloses an odor absorbent material that can be used in bandages, wraps or the like which are advantageous for odoriferous wounds (col. 1, lines 1-10). It would have been obvious to one having ordinary skill in the art at the time of invention to provide the device of Liman with an odor absorbent layer as taught by Shuler in order to alleviate bad odors emanating from a wound being covered. With regards to claims 19-20, see above rejections of claims 15-18.

16. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Liman in view of Augustine (U.S. 5,947,914). Liman discloses a device that can be used with burn victims. Liman lacks a burstable sachet within the enclosure comprising an agent suitable for treating burns. Augustine teaches a wound covering with a cellular structure forming a reservoir for the storage and release of medicaments. It would have been obvious to one having ordinary skill in the art at the time of invention to provide the device of Liman with a reservoir of medicament as taught by Augustine in order to provide a means to administer medication to a burn while being protected by an enclosure.

***Response to Arguments***

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17. Applicant's arguments with respect to claims 11-26 and 31-34 have been considered but are moot in view of the new ground(s) of rejection.

18. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).


### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fenn C Mathew whose telephone number is (703) 305-2846. The examiner can normally be reached on Monday - Friday 9:00am - 5:30pm.

The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9302.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

*fcm*

  
NICHOLAS D. LUCCHESI  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700

fcm

December 12, 2003